



# 2011 LEGAL REVIEW

**Sylvia Watson**

**Indiana State Library**

**[sywatson@library.IN.gov](mailto:sywatson@library.IN.gov)**

# Common Questions

- ▣ E-Verify Hiring Requirements
- ▣ E-Verify Contract Requirements
- ▣ Firearms
- ▣ Sex Offenders
- ▣ Library Trustees
- ▣ Open Door
- ▣ Access to Public Records Act (APRA)





**E-VERIFY**  
&  
**EMPLOYMENT**

# E-Verify & Employees

## IC 22-5-1.7-10 State agencies and political subdivisions required to use E-Verify program; exception

Sec. 10. (a) Except as provided in subsection (b), a state agency or political subdivision shall use the E-Verify program to verify the work eligibility status of all employees of the state agency or political subdivision hired after June 30, 2011.

(b) A state agency or political subdivision is not required to use the E-Verify program as required under subsection (a) if the E-Verify program no longer exists.

As added by P.L.171-2011, SEC.16.

# E-Verify & Employees ctd.

- ▣ Libraries must use E-Verify to verify the work eligibility status of all new employees
- ▣ Check new employees, not job applicants
- ▣ Must run check within 3 days of being hired
- ▣ Includes contract employees, not volunteers
- ▣ Can use agent but get documentation
- ▣ With Tentative Non-Confirmations, no adverse action against employee is allowed until employee either completes the process to contest or advises employer he/she will not contest

# E-Verify & Employees, ctd.

Must post both the DHS and the OSC Posters

**This Organization Participates in E-Verify**



This employer will provide the Social Security Administration (SSA) and, if necessary, the Department of Homeland Security (DHS), with information from each new employee's Form I-9 to confirm work authorization.

In order to determine whether Form I-9 documentation is valid, this employer uses E-Verify's photo matching tool to match the photograph appearing on some permanent resident and employment authorization cards with the official U.S. Citizenship and Immigration Services' (USCIS) photograph.

**IMPORTANT:** If the Government cannot confirm that you are authorized to work, this employer is required to provide you with written instructions and an opportunity to contact DHS and/or the SSA before taking adverse action against you, including terminating your employment.

Employers may not use E-Verify to pre-screen job applicants and may not limit or influence the choice of documents presented for use on the Form I-9.

**NOTICE:**  
Federal law requires all employers to verify the identity and employment eligibility of all persons hired to work in the United States.

If you believe that your employer has violated its responsibilities under this program or has discriminated against you during the verification process based upon your national origin or citizenship status, please call the Office of Special Counsel at 800-255-7688, 800-237-2515 (TDD) or at [www.justice.gov/crt/osc](http://www.justice.gov/crt/osc).

**Employment Verification** Done.

For more information on E-Verify, please contact DHS at:  
**888-897-7781**

The E-Verify logo and mark are registered trademarks of Department of Homeland Security. Commercial sale of this poster is strictly prohibited. M 780 (Rev. 12/2010)



**IF YOU HAVE THE RIGHT TO WORK, Don't let anyone take it away.**



**If you have a legal right to work in the United States, there are laws to protect you against discrimination in the workplace.**

**You should know that --**  
No employer can deny you a job or fire you because of your national origin or citizenship status.  
In most cases employers cannot require you to be a U.S. citizen or permanent resident or refuse any legally acceptable documents.

**If any of these things have happened to you, you may have a valid charge of discrimination that can be filed with the OSC. Contact the OSC for assistance in your own language.**

**Call 1-800-255-7688, TDD for the hearing impaired is 1-800-237-2515.**  
In the Washington, D.C. area, please call 202-616-5594, TDD 202-616-5525.

**Or write to:**  
The Office of Special Counsel  
Civil Rights Division  
U.S. Department of Justice  
P.O. Box 77728  
Washington, DC 20038-7728

**U.S. Department of Justice  
Civil Rights Division**  
Office of Special Counsel for  
Immigration-Related Unfair  
Employment Practices



# E-Verify & Employees ctd.



## Resources:

- ▣ <http://www.in.gov/library/e-verify.htm>  
(Indiana E-Verify information and links)
- ▣ [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify)  
(Dept. of Homeland Security E-Verify site)
- ▣ [http://www.justice.gov/crt/about/osc/htm/I9\\_Verification.php](http://www.justice.gov/crt/about/osc/htm/I9_Verification.php)  
(Dept. of Justice Office of Special Counsel)

# Employee Attestation

- ▣ IC 22-5-6-1 & IC 22-5-6-3 Federal Attestation
  - Required For individuals 18 years old or older in which no employment contract has been signed specifying that the term of the employment is to be more than three (3) working days.
  - Attestation statement must be signed under the penalty of perjury prior to the individual's first day of work

# Employee Attestation, ctd.

**“Under the penalty of perjury, I attest that I am a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized by federal law or by the U.S. Attorney General to be hired, recruited, or referred for such employment.”**



# E-VERIFY & CONTRACTS



# E-Verify & Contracts

- ▣ IC 22-5-1.7 Contracts (new and renewals) for services entered into by Indiana public libraries after June 30, 2011 must contain an E-Verify provision
- ▣ Contractor must also sign affidavit
- ▣ Contract – cure or cancel if contractor employs unauthorized alien



- About Indiana
- Agriculture & Environment
- Business & Employment
- Education & Training
- Family & Health
- Law & Justice
- Public Safety
- Taxes & Finance
- Tourism & Transportation

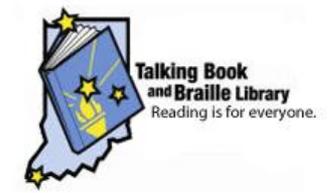


Library



- Library Home
- About the Library
- Catalog
- Services for the General Public
- Services for Libraries
- Services for State Employees
- Collections
- Databases
- Talking Book & Braille Library
- Indiana Center for the Book
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- Events & Public Workshops
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Sign up to receive e-mail and wireless updates from ISL



## Indiana State Library

Library > Services for Libraries > Library Law Resources

### Library Law Resources

[Legislative Information](#) \* [FAQ Bulletins](#) \* [Legal Bulletins](#) \* [Archived Presentations](#)

#### Legislative Information

- 2011 Legislative Update
- 2011 Legislation - SEA 292 Firearms - Analysis & Guidance
- 2011 Legislation - SEA 590 Unauthorized Aliens - Analysis & Guidance

#### Archived FAQ Bulletins

- Frequently Asked Questions - Bylaws
- Frequently Asked Questions - Library Trustees
- Frequently Asked Questions - Public Access Laws - 6.15.2011

#### Archived Legal Bulletins

- ADA Memo - 6.1.2010

#### Archived Presentations

- Public Access Laws
- Library Laws

#### Online Services

FIRST IN LINE EVERY TIME

- Reference & Research Assistance
- Online Databases
- Inspire - Indiana's Virtual Library
- Online Exhibits
- The VINE (Vital Information Exchange)
- Forms.IN.gov

More Online Services »  
Subscriber Center »

#### Stay Connected

- Facebook
- RSS Feeds
- Mobile
- Twitter

#### Top FAQs

- Obtain a Library Card
- Research My Family's History
- Receive Research or Reference Assistance
- Access Indiana's Virtual Library

**For Sample Contract Language, go to :  
www.in.gov/library/law.htm**

**Click on link titled:  
"2011 Legislation – SEA 590 Unauthorized  
Aliens – Analysis & guidance" (See Page 2)**





# FIREARMS IN LIBRARIES

# Firearms in Libraries

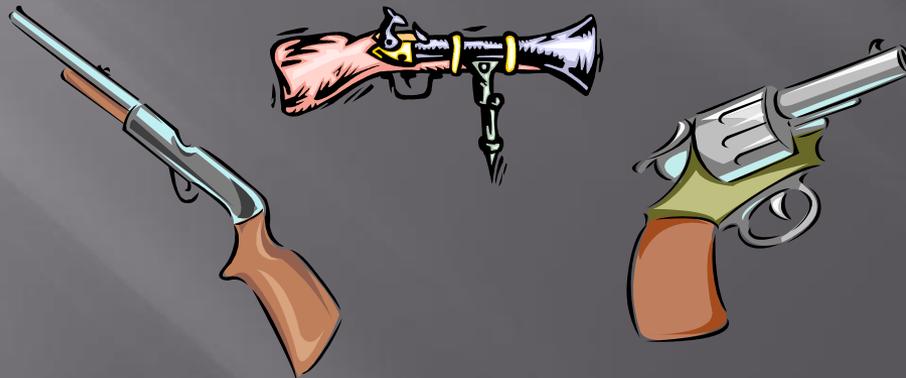
- ❑ IC 35-47-11.1-2 prohibits political subdivisions from regulating firearms, ammunition, and firearm accessories
- ❑ Cannot regulate ownership, possession, carrying, transportation, registration, transfer, and storage of firearms, ammunition, and firearm accessories



# Firearms in Libraries, ctd.

## IC 35-47-1-5 "Firearm"

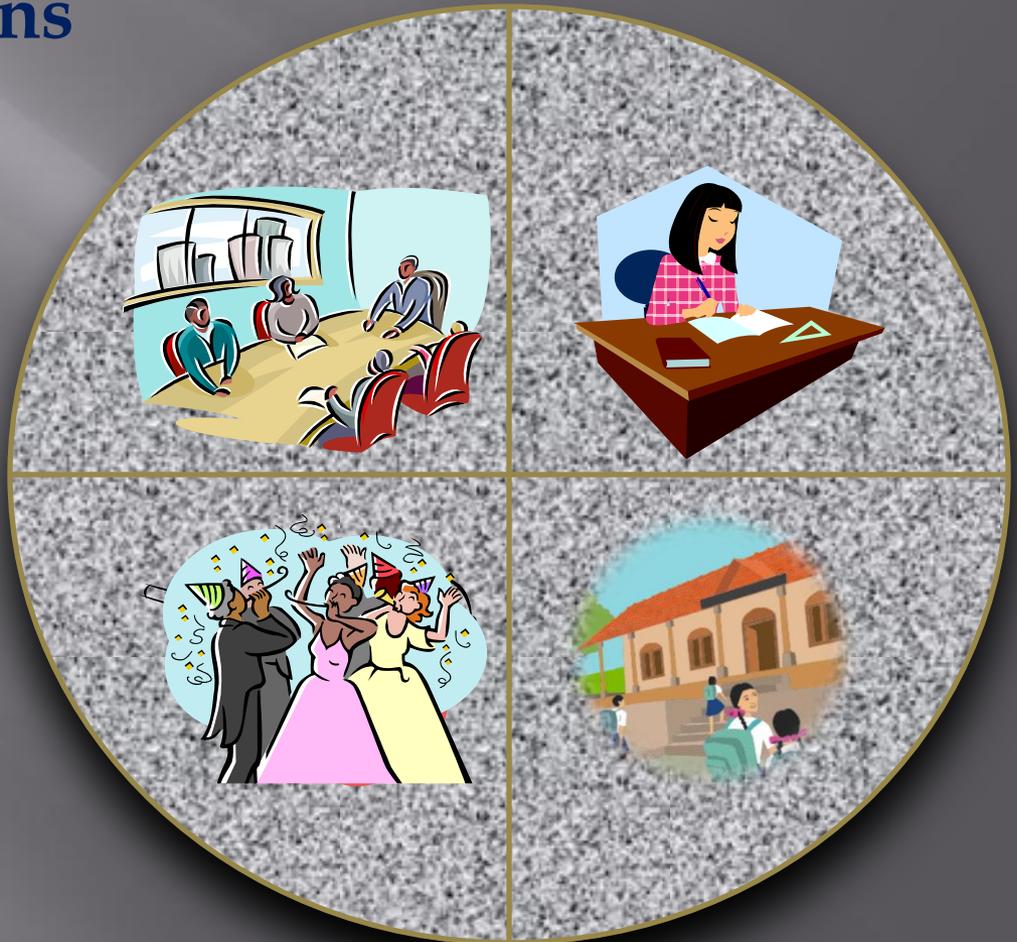
Firearm means any weapon that is capable of expelling, or is designed to expel, or that may readily be converted to expel a projectile by means of an explosion.



# Firearms in Libraries, ctd.

## Available Exceptions

- ▣ Public Meetings
- ▣ Employees
- ▣ Private Events
- ▣ Schools



# Firearms in Libraries, ctd.

**Concealed or Open Carry  
Indiana Law is Silent !**

**Social Norms/Etiquette**

**vs.**

**The Law**



# Firearms in Libraries, ctd.

## Lawsuits

- ▣ Repeal gun policies or risk lawsuit
  - Hammond
  - Evansville
  
- ▣ Successful civil suits
  - Damages
  - Injunctive relief
  - Court costs
  - Attorneys fees



# Firearms in Libraries, ctd.

## What About Safety?

- ▣ Available Laws
  - IC 35-47-4-3 Pointing firearm at another person
  - IC 35-42-2-1 Battery
  - IC 35-42-2-2 Criminal Recklessness
  - IC 35-42-2-3 Provocation
  
- ▣ Patron Behavior/Acceptable Conduct Policy
  - Regulate Behavior, Not Guns

**SEX OFFENDERS  
IN  
THE LIBRARY**

# Sex Offenders in Library

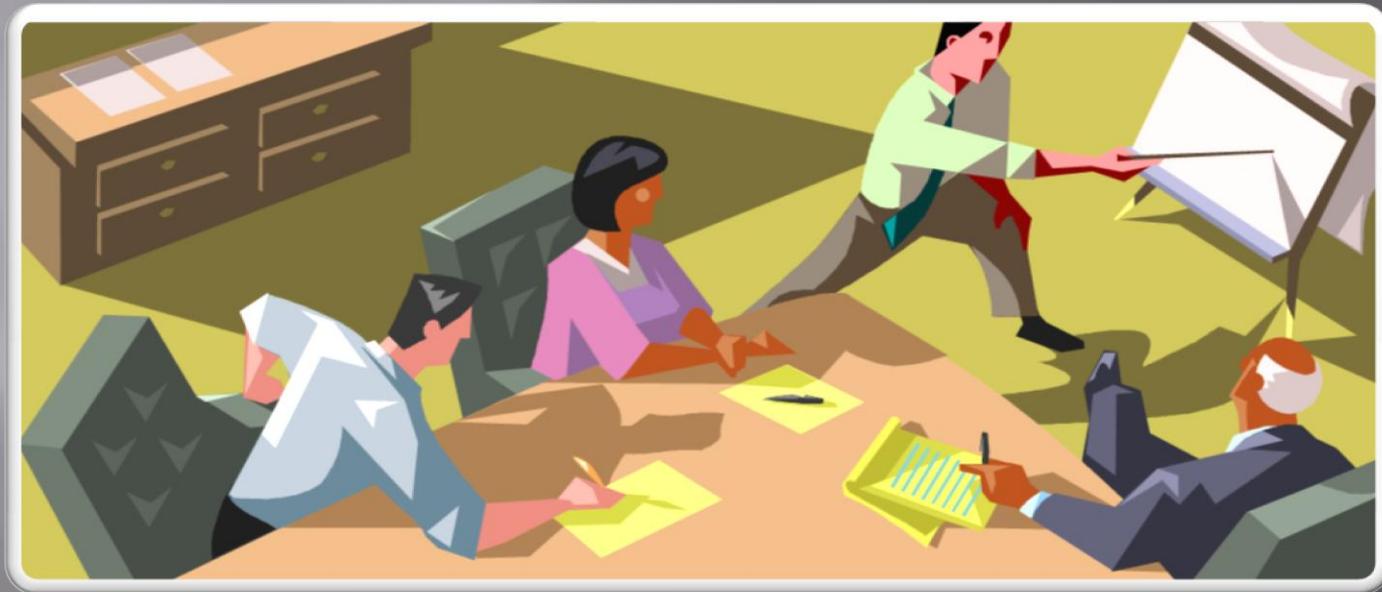
- ▣ Working / Volunteering
  - Create Policy, or
  - Consult Attorney
    - ▣ See IC 35-42-4-10 & IC 35-41-1-29
    - ▣ *Whatley v. State* 906 NE2d 259 (2010)
  
- ▣ Visiting
  - Indiana Parks Cases
  - John Doe vs. City of Albuquerque

# Sex Offenders in Library ctd.

- ▣ Preventative Measures
  - Quiet observation/monitoring
  - Require parental supervision of children
  - Require adults to be accompanied by a child during children's programs
  - Conditions of parole/probation
  - Enforce library's behavior policy



# LIBRARY TRUSTEES



# Library Trustees

- ▣ **Appointments**
  - **Appointment procedures**  
IC 36-12-2-19 & IC 5-4-1-1.2
  - **Term length and successive term limits**  
IC 36-12-2-8 & IC 36-12-2-18
  - **Holdover members**  
IC 36-12-2-18(a) & IC 36-1-8-10(c)
  - **Filling vacancies** IC 36-12-2-20
  - **Board members must live in the library district**  
IC 36-12-2-2

# Library Trustees Ctd.

## ▣ Behavior

- ▣ Appreciation Compensation IC 36-12-2-21
- ▣ Missing Meetings IC 36-12-2-20
- ▣ Behaving Badly IC 36-12-2-20

## ▣ Meetings

- ▣ Quorum IC 36-12-2-23
- ▣ Calling for a Meeting IC 36-12-2-23

# PUBLIC ACCESS LAWS



# Open Door Laws

- ▣ **More on Meetings**
  - **Remote Meeting Attendance**  
IC 5-14-1.5-3
  - **Meeting Memoranda**  
IC 5-14-1.5-4
  - **Executive Sessions**  
IC 5-14-1.5-6.1
  - **Meeting Notices** IC 5-14-1.5-5 & IC 5-14-1.5-6.1(d)
  - **Committees** IC 5-14-1.5-2(b)(3) & IC 5-14-1.5-3



# Access to Public Records Act (APRA)

- ▣ Responses to Requests  
IC 5-14-3-9
- ▣ Denying Access  
IC 5-14-3-9 & IC 5-14-3-4
  - ▣ Patron Information/Personnel files and more
- ▣ Minutes/Meeting Memoranda/Board packets  
IC 5-14-3-2(n)
- ▣ Warrants, Subpoenas, Court Orders



# RECAP

summarium



# Recap

- ▣ **E-Verify Hiring Requirements**
  - Do e-verify checks on all new employees, even if they are contract employees or temporary employees; not volunteers or job candidates
  
- ▣ **E-Verify Contract Requirements**
  - Must add E-verify provisions to service contracts (new & renewals) including any contract that has a service component
  
- ▣ **Firearms**
  - Regulate behavior, not possession

# Recap ctd.

- ▣ **Sex Offenders in library**
  - Visit – generally yes; there are exceptions  
(Regulate behavior, not status)
  - Work or Volunteer –questionable  
(create policy or talk to attorney)
  
- ▣ **Library Trustees**
  - Periodically review law & In the Public Trust
    - ▣ <http://www.in.gov/library/3274.htm>
  
- ▣ **Open Door & APRA**
  - Consult Public Access Laws handbook often
    - ▣ [http://www.in.gov/pac/files/pac\\_handbook.pdf](http://www.in.gov/pac/files/pac_handbook.pdf)

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